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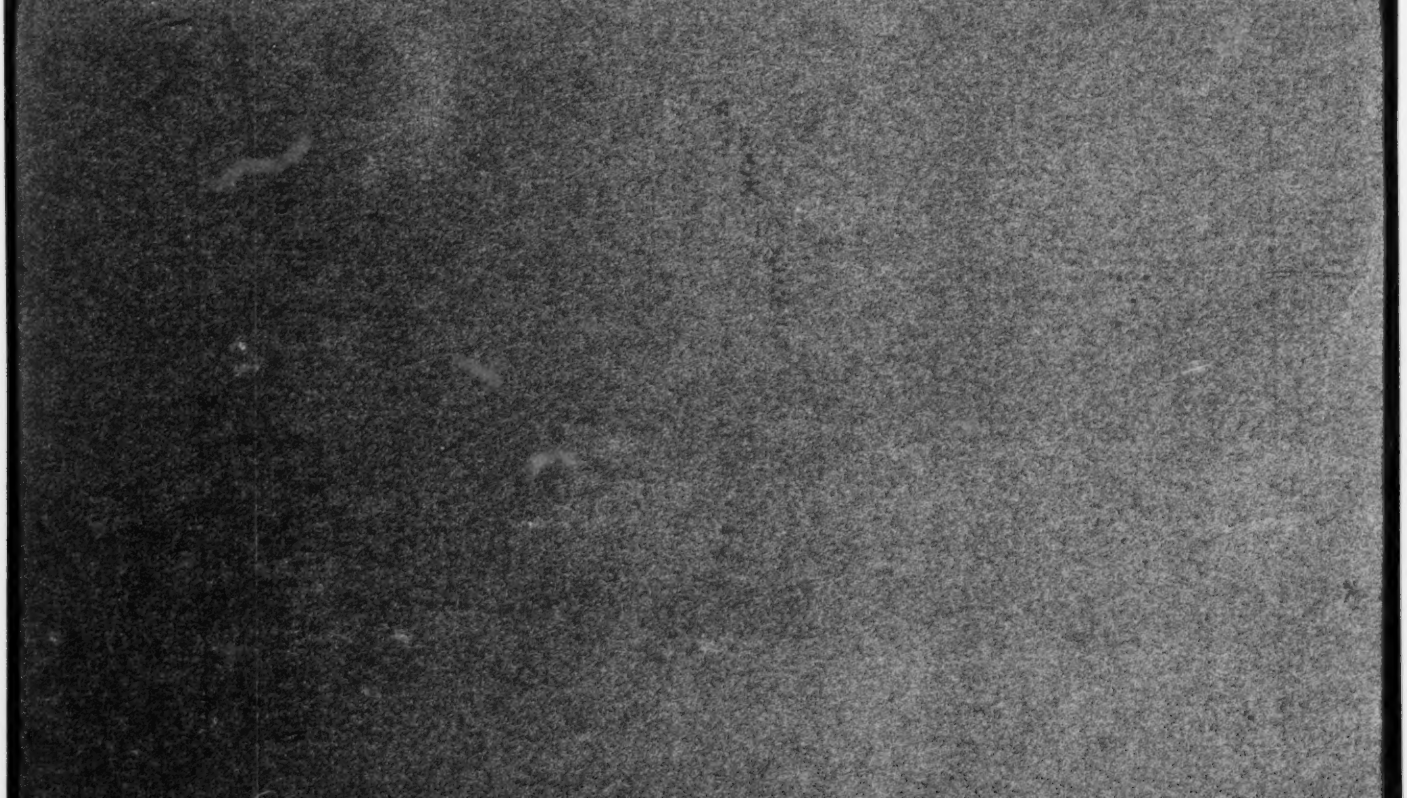
OCTOBER TERM, 1908.

STATE OF MISSOURI, AT THE RELATION OF WILLIAM PRESTON HILL,
Plaintiff in Error,
vs.
ALEXANDER M. DOCKERY, SAM B. COOK, R. B. WILLIAMS, ALBERT O. ALLEN, EDWARD C. CROW, AND STATE BOARD OF EQUALIZATION,
Defendants in Error.
No. 180

MOTION OF PLAINTIFF IN ERROR TO ADVANCE ON THE DOCKET.

FRANK K. RYAN,
E. P. JOHNSON,
Attorneys for Plaintiff in Error.



17226

Supreme Court of the United States.

OCTOBER TERM, 1902.

STATE OF MISSOURI, AT THE RELATION OF WILLIAM PRESTON HILL,
Plaintiff in Error,

vs.

ALEXANDER M. DOCKERY, SAM B. COOK, R. P. WILLIAMS, ALBERT O. ALLEN, EDWARD C. CROW, AND STATE BOARD OF EQUALIZATION,
Defendants in Error.

No. 540.

Comes the said plaintiff in error and moves the honorable Court to advance this cause upon the docket, and hear it at as early a day as the convenience of the Court will permit, and for the reasons therefor it states:

STATEMENT OF FACTS.

William Preston Hill presented to Hon. Waltour M. Robinson, one of the judges of the Supreme Court of the State of Missouri, a petition for a mandamus against the defendants in error, and thereupon, as provided by statute,

on September 29, 1903, said Judge issued an alternative writ of mandamus directed to them, returnable to the succeeding regular October Term of said Court in banc.

Said petition alleged in substance (and the alternative writ of mandamus contained such allegations entire), that said Hill was a citizen of and resident in said State and the City of St. Louis therein, and a tax payer in said City. That prior to and on the first day of June, 1901, he owned and still owns real and personal property situate in said City of the actual cash value of $104,070.00, which had been and still was assessed for taxation for State, City and School purpose by the Board of Assessors for said City, for the year 1902, at said full cash value, on which said property he had theretofore paid and the same was then liable for a tax in the sum of $2,026.39, for the latter year.

That defendants in error constituted the State Board of Equalization of said State, at all times therein mentioned, and that they met, organized and qualified on the third Monday in April, 1902, and took an oath to support the Constitution of the United States and the State of Missouri, and that they would to the best of their knowledge and ability faithfully and impartially assess, adjust and equalize the aggregate valuation of the various corporations liable to taxation in the State of Missouri, for taxes for the year 1902, and organized by the election of a president and vice-president, and that defendant in error, Albert O. Allen, entered upon the duties of Secretary, and said Board entered upon the discharge of its duties as such, whereupon said Secretary presented to said Board, a communication from the Auditor of said State, laying before it the returns made to his office by the President or other chief officer of the various corporations liable to taxation in said State, and the certificates made by the County Clerks relating thereto.

That on said first day of June, 1901, certain named corporations were, and still are, companies respectively owning and operating Railroads, Street Railroads, Bridges, Telegraphs, Telephones, and doing Express business in, and that each of them then had a chief office and place of business, and owned property both tangible and intangible, consisting of personal property and franchises, in said City and State, and that all of said property was subject to taxation in said City and State and assessable for said purpose by said Board only. That the aggregate total cash value of such property of each of them, separately set out, was such as to make the aggregate amount which should have been assessed to them and apportioned to said City of St. Louis, to have been of the total cash value of said Railroad Companies (eleven in number) the sum of $23,700,697.25. Of said Street Railroad Companies (four) the sum of $58,294,066.42. Of said Bridge Companies (two) the sum of $6,900,000.00. Of said Telephone Companies (two) the sum of $4,719,404.16. Of said Telegraph Companies (two) the sum of $605,125.38. And of said Express Companies (four) the sum of $33,782 (making an aggregate total cash valuation of $94,253,075.21).

That it became and was the duty of said Board to fix, determine and assess the total actual cash value of said property of each of said corporations, and apportion the aggregate of the same of each of them to the Counties and the said City of St. Louis for the purpose of taxation. That said Board held sessions from time to time until August 26, 1902, when an order of adjournment *sine die* was made.

That said Hill appeared before said Board during said sessions and demanded that they perform said duty, but they utterly failed and refused to do so as to any or all of said corporations, but unmindful of said duty, knowingly and wilfully made pretended assessments of the same,

grossly inadequate, fraudulent and not uniform on the same classes of property of said respective corporations, in this, that said pretended assessments of said property of each of said railroad companies was made at one-fourth of said total actual cash value; each of said street railroad companies at 29 per cent thereof excepting on one made at 48 per cent; each of said bridge companies at less than one-third thereof; each of said telegraph companies at 43 per cent thereof; each of said telephone companies at one-third thereof, and made no assessment of any of the property of said express companies.

That said Board kept a record of its proceedings, including said pretended assessments, signed it officially, and on its adjournment filed the same in the Auditor's office who certified it to the County Courts and Municipal Assembly of said City, and upon which the tax levy for State, City and School purposes for the year 1902, would be made unless the Court granted relief by mandamus, by means whereof the taxes on said property of said Hill, and other tax payers, excepting said corporations, would be largely increased, to their great damage and injury, and said Hill be deprived of his property without due process of law, and denied the equal protection of the law, contrary to the provisions of Section 1, Article XIV, of the Amendments to the Constitution of the United States.

A statement of the relief asked follows.

On the return day of said alternative writ, the defendants in error filed a motion to quash the same, which is in the nature of a demurrer to said writ and petition, based on the grounds that the Court had no jurisdiction of the subject matter of the writ and petition, or of the persons of defend-

ants, in the proceeding, and that the writ and petition were insufficient in law to entitle the relator to relief, and the matters stated did not constitute any cause of action against them, or either of them.

The Court took up said motion to quash, and on November 10, 1902, made an order sustaining said motion, quashed said alternative writ and rendered a final judgment against the plaintiff in error.

A writ of error was sued out in the cause and it is regularly on the docket of this Court.

REASONS FOR ADVANCEMENT.

1. The State of Missouri is the legal plaintiff in this cause, and while the petitioner used its name for his own benefit, the interest of the State in the subject matter far exceeds his interest, and in fact equals the interest of all its tax payers combined. It therefore comes directly within the spirit and reason of section 949, Rev. Stats. of the United States, authorizing a cause to be advanced for hearing when a State is a party to it, as much so as if the proceeding were exclusively on the part of the State.

2. The interests involved extend to the entire taxable property of the character designated, situate in the State, and is not confined to the sum of $94,253,075.21, the value of the same situate in said City of St. Louis, which latter is several times exceeded by the former.

3. The State of Missouri will be greatly embarrassed in the collection of its revenue, and subjected to great loss

thereof in the event of a reversal of this cause, by this Court, unless the same be advanced on the docket and heard and determined at an early day.

Respectfully submitted,

FRANK K. RYAN,
E. P. JOHNSON,
Attorneys for Plaintiff in Error.